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IN THE

Supreme Court of the United States

DONALD P. ROPER, Superintendent,
POTOSI CORRECTIONAL CENTER,
Petitioner,

v.

CHRISTOPHER SIMMONS,
Respondent.

On Writ of Certiorari to the Supreme Court of Missouri

BRIEF OF THE NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT

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BRIEF OF THE NATIONAL LEGAL AID AND DEFENDER ASSOCIATION, AS *AMICUS CURIAE* IN SUPPORT OF RESPONDENT

INTEREST OF *AMICUS CURIAE* [1]

The National Legal Aid and Defender Association (NLADA), a nonprofit corporation, works to support indigent defender services and civil legal assistance to those who cannot afford lawyers. Through its Defender Legal Services division, NLADA provides training, information, and tech-

[1] *Amicus* files this brief with the consent of all parties. Letters of consent have been lodged with the Clerk of the Court. No counsel for a party authored this brief in whole or in part. No person or entity, other than *amicus*, its members, or its counsel made a monetary contribution for the preparation or submission of this brief.

nical assistance to public defender offices and others who provide legal services to indigent criminal defendants. NLADA's American Council of Chief Defenders is a leadership council that is dedicated to promoting fair justice systems and ensuring that citizens who are accused of crimes have adequate legal representation. NLADA has approximately 680 program members, representing 12,000 lawyers, including nonprofit organizations, government agencies, legal aid organizations, and law firms; NLADA also has approximately 1,000 individual members.

NLADA traces its roots to the National Alliance of Legal Aid Societies, which was formed by 15 legal aid societies in 1911. It is the oldest and largest national nonprofit membership association that devotes its resources exclusively to serving the equal justice community.

NLADA is a leading voice in public policy debates on equal justice issues. In pursuit of its efforts, NLADA has filed *amicus curiae* briefs in major constitutional cases before this Court that involve the administration of the criminal justice system. For example, NLADA filed an *amicus* brief in *Thompson v. Oklahoma*, 487 U.S. 816, 839 n.* (1988) (mentioning NLADA brief). Undersigned counsel represented NLADA on the *Thompson amicus* brief.

SUMMARY OF ARGUMENT

This is a brief about line-drawing.

We begin with the premise—accepted by the plurality, concurrence, and dissent in *Thompson v. Oklahoma*—that there is "some age below which a juvenile's crimes can never constitutionally be punished by death." *Thompson v. Oklahoma*, 487 U.S. 815, 848 (1988) (concurring opinion); *id* at 828-29 (plurality opinion); *id.* at 872 (dissenting opinion).

This case presents the question invited by such an assumption: At what age does our culture set the line? The answer is age 18. Throughout the American legal system, age 18 is the

recognized dividing line between adult responsibilities and childhood. Eighteen is the only principled line here as well.

Age 18 is the only *principled* line the Court can draw here. In most states and for most purposes, minority status—defined as lower than age 18—confers a host of legal disabilities. These legal disabilities are powerful objective indicia that in this country age 18 is the line separating childhood from adulthood. Minors are treated differently because minors *are* different. The diverse legal disabilities imposed upon minors are bottomed on the common sense and empirically supported notion that minors lack maturity, judgment, impulse control and experience. Nineteen states now bar the execution of juvenile offenders, and 12 additional states and D.C. bar executions altogether.

Any other line would be arbitrary—and arbitrariness is antithetical to the eighth amendment.

ARGUMENT

I. THE EXECUTION OF A MINOR WHO WAS UNDER THE AGE OF EIGHTEEN AT THE TIME OF THE OFFENSE WOULD VIOLATE EVOLVING STANDARDS OF DECENCY

The Court made clear in *Thompson* that *some* minimum age of susceptibility to the punishment of death must be recognized by a constitutional guarantee that brings to bear evolving standards of decency in fixing the outer boundaries of that criminal sanction. *Thompson*, 487 U.S. at 828-29 (plurality); *id.* at 848 (concurrence); *id.* at 872 (dissent). The problem, here as elsewhere in the evolution of constitutional law, resides in drawing the line. Shall it be 10, 11,[2] 12, 15, 18, 20, 21?

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[2] This is not a hypothetical. *See* Sam Verhouek, *Texas Legislator Proposes the Death Penalty for Murderers as Young as 11*, N.Y. Times, April 18, 1998.

The inevitability of the difficult task of linedrawing is endemic to a Constitution that has chosen not to leave it to the vagaries of isolated juries and trial judges to determine exclusively and irremediably the state of our national conscience. If a constitutional line exists here—and *Thompson* shows that it does—the appropriate place to draw it is at least far clearer in relation to the present subject than in many constitutional areas. The overwhelming concentration of the relevant indicators fix age 18 as the line of full adult responsibility with a clarity that is not merely convenient but compelling when the gravest penal sanction of a society is sought to be exacted of its youth.

A. The Traditional Two-Prong Eighth Amendment Analysis: From *Gregg* to *Coker* to *Ford* to *Thompson* to *Atkins*, and the *Penry/Stanford* Aberration

The cruel and unusual punishments clause of the eighth amendment "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." *Atkins v. Virginia*, 536 U.S. 304, 311-12 (2002) (quoting *Trop v. Dulles* 356 U.S. 86, 101 (1958)). "The basic concept under lying the eighth amendment is nothing less than the dignity of man." *Atkins*, *id.* (quoting *Trop*, *supra*). Standards of decency evolve and should be "judged not by the standards that prevailed in 1685 when Lord Jeffreys presided over the 'Bloody Assizes' or when the Bill of Rights was adopted, but rather by those that currently prevail." *Atkins*, 536 U.S. at 311.

A claim that capital punishment is unconstitutionally excessive—as applied to a category of crimes or to a category of criminals—has traditionally been tested against a two-prong analysis. The Court's traditional substantive eighth amendment jurisprudence has its genesis in the landmark 1976 case *Gregg v. Georgia*, 428 U.S. 153 (1976). The *Gregg*

Court held capital punishment was not cruel and unusual punishment as applied to the crime of aggravated murder.

In providing analytical content to the facially vague phrase "the evolving standards of decency that mark the progress of a maturing society," the Court in *Gregg* crafted a two-prong test. The first prong was an attempt to identify the objective indicia that reflect the public attitude toward a given sanction. These objective indicia involved examining societal values as reflected in legislative enactments and jury decisions.

The second prong of *Gregg*'s proportionality analysis was subjective. It required the Justices to apply their independent judgment to determine whether the punishment at issue served the legitimate goals of punishment—principally deterrence and retribution. *Id.* at 183.

One year after *Gregg*, the Court applied the same two-prong test to the crime of rape. In *Coker v. Georgia*, 433 U.S. 584 (1977), the Court reaffirmed that objective indicia such as legislative enactments and jury verdicts were the beginning of proportionality analysis, but they were not the end: "The Constitution contemplates that in the end our own [the Court's] judgment will be brought to bear on the question of the death penalty under the eighth amendment." *Id.* at 597; *accord Gregg*, 428 U.S. at 182-83. Hence the importance of the second prong of *Gregg*'s traditional analysis. *Accord Enmund v. Florida*, 458 U.S. 782, 799 (1982) (applying two-prong test to crime of felony murder); *Ford v. Wainwright*, 477 U.S. 399 (1986) (applying two-part test to executing the insane.)

When the Court first addressed the issue of capital punishment for juvenile offenders, the lead opinion applied the traditional two-prong test first articulated in *Gregg*. *Thompson v. Oklahoma*, 487 U.S. 815, 836 (1988). Then, in twin cases decided in 1989, the Court seemed to dramatically constrict the first prong of the traditional two-part analysis,

and the Court appeared to delete the second prong altogether. *Stanford v. Kentucky*, 492 U.S. 361 (1989) (juvenile offenders); *Penry v. Lynaugh*, 492 U.S. 302 (1989) (mentally retarded offenders).

Two years ago the Court returned to its traditional two-prong analysis. In *Atkins v. Virginia*, 536 U.S. 304 (2002), the Court revisited the issue of capital punishment for the mentally retarded and overruled *Penry*. *Atkins*'s analysis more closely resembles that in *Thompson*, *Gregg*, *Coker*, *Enmund*, and *Ford*, than that in *Stanford* and *Penry*. The *Atkins* Court first looked at the objective evidence of legislative intent provided by state legislation barring the death penalty. Then it undertook an independent examination of whether the imposition of the death penalty on the mentally retarded constitutes cruel and unusual punishment under today's evolving standards of decency. *Id.* at 313.

We believe that the traditional two-prong analysis—employed from *Gregg* to *Coker* to *Enmund* to *Ford* to *Thompson*, and reaffirmed in *Atkins*—is correct. *Penry* and *Stanford* were anomalies. Applying the traditional test to mental retardation, the Court overruled *Penry*. Applying the traditional test to the juvenile death penalty, the Court should overrule *Stanford*.[3]

B. The First Prong (Objective Indicia): In Most States and for Most Purposes, Age Eighteen Marks the Bright-Line Boundary Between Childhood and Adult Responsibilities

Throughout the American legal system, age 18 is recognized as the dividing line between adult responsibility and childhood. This bright line is reflected in objective indicia

[3] *See generally In re Stanford*, 536 U.S. 304 (2002) (Stevens, J., joined by Breyer, Ginsburg and Souter, J.J.) (opinion respecting denial of certiorari); Barry Feld, *Competence, Culpability and Punishment: Implications of Atkins for Executing and Sentencing Adolescents*, 32 HOFSTRA L. REV. 463 (forthcoming 2004).

such as the enactments of legislatures, the actual behavior of capital juries, the opinions of respected professional organizations, and the norms of international conduct. *E.g.*, *Thompson*, *supra*; *Atkins*, *supra*; *but see Stanford*, *supra*. Linedrawing here should be "informed by objective factors to the maximum possible extent." *Atkins*, 536 U.S. at 312; *Coker*, 433 U.S. at 592.

The laws and policies discussed in this section reflect an almost universal judgment that minors ought to be treated differently from adults. Generally, there are no exceptions to that judgment. Public officials do not consider requests by especially mature minors to allow them to vote, serve as jurors, or drink alcoholic beverages. As a society, we treat those under age 18 as categorically different from adults. These lines reflect clear distinctions between children and adults, distinctions that require the Court to draw the line at age 18 for the imposition of the death penalty.

1. *Legislative Enactments*

Stanford only considered a single type of legislative enactments: statutes addressing the narrow issue of execution eligibility for juvenile offenders. By contrast, *Thompson* considered the full spectrum of statutes demarking the line between adulthood and childhood. We believe that the inclusive approach of *Thompson* is correct.

The "law has generally regarded minors as having a lesser capability for making important decisions," *Carey v. Population Services International*, 431 U.S. 678, 693 n.15 (1977), and "recognizes a host of distinctions between the rights and duties of children and those of adults." *New Jersey v. T.L.O.*, 469 U.S. 325, 350 n.2 (1985) (Powell, J., concurring). Because of these distinctions, the Court has "sustained legislation aimed at protecting the physical and emotional well-being of youth even when the laws have operated in the sensitive area of constitutionally protected rights." *New York v. Ferber*, 458 U.S. 747, 757 (1982). The "state's interest in

the welfare of its young citizens justifies a variety of protective measures. Because he may not foresee the consequences of his decision, a minor may not make an enforceable bargain. He may not lawfully work or travel where he pleases, or even attend exhibitions of constitutionally protected adult motion pictures. Persons below a certain age may not marry without parental consent." *H. L. v. Matheson*, 450 U.S. 398, 421-22 (1981) (Stevens, J., concurring) (quoting *Planned Parenthood of Central Missouri v. Danforth*, 428 U.S. 52, 102 (1976) (Stevens, J., dissenting)).

As the plurality observed in *Thompson*, "[i]t would be ironic if these assumptions that we so readily make about children as a class—about their inherent difference from adults in their capacity as agents, as choosers, as shapers of their own lives—were suddenly unavailable in determining whether it is cruel and unusual to treat children the same as adults for purposes of inflicting capital punishment." *Thompson*, 487 U.S. at 825 n.23 (plurality).

Minority status means younger than age 18. Eighteen years is the line selected by Congress and the states in their enactment and ratification of the twenty-sixth amendment to the Constitution governing voting age. Following extensive hearings, both state and federal legislatures agreed to give constitutional significance to age 18 as the time when young people should first be permitted to participate in the most basic civic responsibility of adults in a democracy. *See Lowering the Voting Age to 18: Hearings Before the Subcomm. on Constitutional Amendments of the Senate Committee on the Judiciary*, 91st Cong., 2d Sess. (1970); Sen. Rep. No. 92-26, 92d Cong., 1st Sess. (1971); House Rep. No. 92-37, 92d Cong., 1st Sess. (1971). Eighteen also is the minimum age at which a citizen may be drafted into the armed services as well as the minimum age at which a person may enlist without parental consent. 50 U.S.C.S. app. § 454(a), (c) (2004).

As the plurality noted in *Thompson*, 487 U.S. at 839-848 (Appendices A-F), in most states and for most purposes, a "minor" means one below age 18:

- All states and DC set the age of majority at age 18 or older. Forty-six jurisdictions set age 18 as the age of majority; two jurisdictions set the age at 21, two set it at 19, and one does not set a uniform age of majority. *See* Appendix A (collecting current statutes).
- In no jurisdiction may anyone below the age of 18 serve on a jury. Forty-seven jurisdictions require jurors to be 18 years or older, two require jurors to be at least 19 years and two require jurors to be at least 21. *See* Appendix B (collecting current statutes).
- No jurisdiction has lowered its voting age below 18. *See* Appendix C (collecting current statutes).
- All jurisdictions but four require unemancipated minors to be 18 years old to marry without parental consent. In one jurisdiction, the minimum age is 19; in two states the minimum age is 16; in another jurisdiction, females may marry at age 15 without parental consent. *See* Appendix D (collecting current statutes).
- Thirty-two jurisdictions establish 18 as the age of consent for most forms of non-emergency medical treatment; one state sets the age at 21, one jurisdiction puts the age at 17, two jurisdictions put the age at 16, two set the age at 14, two permit treatment if the minor is able to understand the decision, and eight jurisdictions have no legislation in this area. *See* Appendix E (collecting current statutes).
- Forty-one jurisdictions require a person to be age 18 to receive a driver's license without parental consent; two jurisdictions set the age at 17, while eight set it at 16. *See* Appendix F (collecting current statutes).

- In forty-five jurisdictions, a person must be age 18 to purchase pornographic materials; four jurisdictions set the age at 17, one jurisdiction sets it at 16, and one jurisdiction has no legislation in this area. *See* Appendix G (collecting current statutes).
- No jurisdiction allows legalized gambling by people younger than age 18. Of the forty-eight jurisdictions which permit legalized gambling, 42 set the minimum age at 18, five set it at 21, one sets it at 19. *See* Appendix H (collecting current statutes).
- Of the sixteen jurisdictions which have in recent years set a minimum age for admission to pool halls, twelve states put the age at 18, three set the age at 16, and one puts it at 19. *See* Appendix I (collecting current statutes).
- Of the twenty-nine jurisdictions which have in recent years set a minimum age for the right to pawn property or to sell to junk or precious metal dealers, twenty-five set the age at 18, while three set the age at 16, and one at age 19. *See* Appendix J (collecting current statutes).
- Many localities have juvenile curfew ordinances. The "most common upper age limit" is 18. *See* Note, *Juvenile Curfew Ordinances and the Constitution*, 76 Mich. L. Rev. 109, 140 (1977).

Contemporary legislative attitudes toward minors are reflected further in the development of juvenile justice systems. "Juvenile courts exist because Americans admit to a fundamental difference between children and adults." *See* Institute of Juvenile Administration/American Bar Association, Juvenile Justice Standards, Standards Relating to Transfer Between Courts 1 (1980). Every state has a comprehensive juvenile court system, the principal purpose of which is to rehabilitate and the premise of which is that

minors are not fully responsible for their offenses and therefore should be treated more benignly than their adult counterparts. *See McKeiver v. Pennsylvania*, 403 U.S. 528, 551-52 (1971) (White J., concurring).

Most model standards reflect the judgment of the vast majority of jurisdictions which set age 18 as the boundary of juvenile courts. *See* United States Department of Health, Education and Welfare, Welfare Administration, Children's Bureau, Standards For Juvenile and Family Courts 36 (1966) (Successful experience in these courts over many years has established the soundness of this age level [18 years] of Jurisdiction"); National Conference of Commissioners on Uniform State Laws, Uniform Juvenile Court Act of 1968, § 2.1(i) (1979) (18 years); United States Department of Justice, National Institute for Juvenile Justice and Delinquency Prevention, Working Papers of the National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention, Jurisdiction-Delinquency, vol. IV, at 10-11 (1977) (18 years); Institute of Judicial Administration/ American Bar Association, Standards Relating to Transfer Between Courts, at Standard § 1.1A and Commentary (1980) (18 years); Institute of Judicial Administration/ American Bar Association, Juvenile Justice Standards, Standards Relating to Juvenile Delinquency and Sanctions, Standard 2.1 and Commentary (1980) (18 years); Twentieth Century Fund Task Force on Sentencing Policy Toward Young Offenders, *Confronting Youth Crime* 9 (1978) (18 years).

As to capital punishment specifically, the legislative message supports the notion that if an age must be chosen, eighteen is the only *principled* line. Congress—our national legislature—consistently sets age 18 as the minimum age for execution eligibility. The federal death penalty legislation enacted by Congress in the Anti-Drug Abuse Act provides that a sentence of death "shall not be carried out upon a person who is under 18 years of age at the time the crime was

committed." 134 Cong. Rec.-House 1108 (Oct. 21, 1988) (codified at 21 U.S.C. §848(1) (2003)). When federal death penalty legislation was proposed in 1986, no minimum age was specified. An amendment to the bill, setting 18 as the minimum age, passed without recorded disagreement. *See Establishing Constitutional Procedures for the Imposition of Capital Punishment: Report of the Committee on the Judiciary*, 99th Cong., 2d Sess. 30 (1986). In 1994, Congress enacted the Federal Death Penalty Law, adding 50 new federal capital offenses. Again, the minimum age selected by our national legislature was age 18. 18 U.S.C. §2591(a)(2)(D).

At the state level, protection for minors under death penalty statutes has increased dramatically in the past quarter century. A 1961 Associated Press survey of legal possibilities in criminal proceedings involving juveniles showed a much harsher legal environment. *See* New York Times, Jan. 7, 1962, at 81, col. 1. Of forty-one death penalty states at that time, the minimum age for the death penalty was age 7 in sixteen states, age 8 in three states, age 10 in three states and ages 12 to 18 in nineteen states. *Id.* Even at the time of *Stanford* in 1989, 11 states banned the juvenile death penalty.

Since *Stanford*, seven additional states have set the minimum age for execution eligibility at 18 years old. Four did so by statute. *See* South Dakota 2004 Session Laws, S.B. 182 (approved March 3, 2004); Wyoming 2004 Session Laws, ch. 29 (H.B. 5) (approved March 3, 2004); S. 426, 112th Leg., Reg. Sess., Indiana Laws; H.B. 374, 1999 Leg. Sess., 1999 Montana Laws. Two states did so by newly reinstating capital punishment, but only for those offenders who were at least 18 years old. *See* Kan. Crim. Code Ann. § 21-4622 (Vernon 2001); N.Y. Crim Proc. Law § 400.27 (McKinney 2002). One state supreme court held that its capital statute cannot be construed to allow imposition of the juvenile death penalty. *See State v. Furman*, 858 P.2d 1092, 1102-03 (Wash. 1993).

Thus, of the 38[4] death penalty states in the United States, a total of 18 states require a minimum age of 18 for capital punishment. Add the federal civilian and military death penalty statutes, and the number rises to 20—one jurisdiction more than the 18 states *Atkins* identified as prohibiting execution of the mentally retarded. *Atkins*, *supra* at 314-15. If the 12 states and D.C. that bar capital punishment altogether are included, the combined total becomes 30 states that bar juvenile execution—the same number as the 30 states that prohibited execution of the mentally retarded at the time *Atkins* was decided. *See* Victor Streib, *The Juvenile Death Penalty Today: Death Sentences and Executions for Juvenile Crimes, Jan. 1, 1973-April 30, 2004*, available at http://www.law.onu.edu (last visited July 7, 2004) [hereinafter "Streib"].[5]

On March 3, 2004, Governors Mike Rounds of South Dakota and Dave Freundenthal of Wyoming signed into state law bipartisan legislation banning the execution of those who were under age 18 at the time of their crimes. On February 19, 2004, in a state still traumatized by the brutal murders of two Dartmouth College professors, *see generally* DICK LEHR AND MITCHELL ZUCKOFF, JUDGMENT RIDGE: THE TRUE STORY BEHIND THE DARTMOUTH MURDERS (2004), the New Hampshire Senate voted that the state should not execute offenders younger than age 18. *See* Anne Saunders, AP, *NH Senate Favors State Ban on Executing Minors*, Valley News [Vt.], Feb. 20, 2004. On April 23, 2004, the New Hampshire House followed suit. *See* Daniel Barrick, *Benson to Veto Raising*

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[4] New York's highest court recently declared that state's capital statute unconstitutional based on the New York constitution. *See People v. LeVallee*, No. 71, ___ N.Y. ___ (June 24, 2004).

[5] Professor Streib counts Missouri as an age-18 state, based on the lower court's decision in this case. We do not count Missouri. For us, the purpose of this state nose-counting is to demonstrate that state legislatures have set age 18 at the line separating childhood from adulthood. The minimum age in Missouri was set by a state supreme court interpreting the federal constitution.

Minimum Death Penalty Age, Valley News [Vt.], April 24, 2004. The governor vetoed. Many other states have considered similar bills. *See* Feld, *supra*.

Further, as was the case with *Atkins*, the legislative change has all been in one direction: *raising* the minimum age for execution eligibility. No state since *Stanford* has lowered the age from 18 to 17 or 16, even though *Stanford* empowered states to do so. To the contrary, the minimum age has either stayed the same or been raised. Streib, *supra*. The only two states to reinstate capital punishment since *Stanford* set 18 as the minimum age. *Id.*

In any event, statutes authorizing the death penalty for minors are not determinative. The legislatures that permit execution for crimes committed by minors do not deem those same minors sufficiently mature to vote, sit on a jury or engage in a wide variety of adult activities. *See* Appendices A-J. Further, as we will now show, capital statutes authorizing the death penalty for minors have led to only a minuscule number of juvenile death sentences and actual executions. In sum, death penalty legislation alone cannot reveal society's evolving standards of decency. *Accord Thompson*, *supra*; *Atkins*, *supra*; *but cf. Stanford*, *supra*; *Penry*, *supra*.

2. *Jury Determinations and Actual Executions*

In addition to legislative enactments, the "second societal factor the Court has examined in determining the acceptability of capital punishment to the American sensibility is the behavior of juries." *Thompson*, 487 U.S. at 831 (plurality); *accord Atkins*, 536 U.S. at 316. In the three decades since *Furman v. Georgia*, 408 U.S. 238 (1972), the Court has consistently looked to the pattern of jury verdicts in support of a conclusion about the death penalty's constitutionality, either generally or for particular crimes or offenders.

Thus, the Court, while considering legislation as one measure of society's evolving standards of decency, still looks

beyond those indicators to learn whether they are accurate. There is a good reason to do so:

> Each lawmaker confronts capital punishment abstractly. No life depends on her vote. Legislative response tells us the degree to which we are willing to have laws permitting execution, but sentencing and execution tell us the degree to which we are willing to carry them out. A statute, furthermore, is static. It remains until changed. As public opinion shifts, older statutes become less reliable indicators of current values. Forces influence legislators that do not affect jurors. A legislator may believe, for example, that death penalty proponents in his constituency are more likely than its opponents to be single- issue voters or are more likely to organize against him, if he opposes capital punishment, than will opponents if he supports it. A constituency's willingness to vote based on a single issue and its degree of organization likely influence a lawmaker's decision and may skew the degree to which the pattern of legislation reflects community sentiment. Of course, legislative action may accurately reflect community sentiment on the acceptability of the death penalty, either generally or in classes of cases. But without a pattern of jury response, we cannot know whether this is true or whether, instead, various political factors have combined to obscure the community view. The jury, because it is so directly involved, is needed to avoid guessing wrong.
>
> Stephen Gillers, *Deciding Who Dies*, 129 U. PA. L. REV. 1, 72-73 (1980).

A total of 227 juvenile death sentences have been imposed since 1973, only three percent of the approximately 7,445 death sentences imposed for offenders of all ages. *See* Streib, *supra* at 8. Of these 227 juvenile death sentences imposed in the modern era, only 72 remain currently in force. *Id.* For the 155 juvenile death sentences finally resolved either by reversal or execution, the reversal rate is 86% (133 of 155). *Id.* Only 14% (22 of 155) resulted in execution. *Id.*

Since 2000, the juvenile death sentencing rate appears to have declined significantly. Seven such sentences were imposed annually in 2000 and 2001—half the typical rate in the preceding six years. *Id.* In 2002, only four juvenile death sentences were imposed. *Id.* Only two such sentences were imposed in 2003, and only one was imposed in the first five months of 2004. *Id.*

In short, capital juries rarely sentence juvenile offenders to death. Actual juvenile executions have become rarer still. In *Atkins*, this Court found persuasive the fact that execution of the mentally retarded had become truly unusual. Many states that nominally had the death penalty on their books no longer imposed it at all or had never imposed it on a mentally retarded person, and only a total of five persons known to be mentally retarded had been executed in the United States in the thirteen years following the Court's decision in *Penry*. *See Atkins*, 536 U.S. at 316.

The practice of executing those under 18 has become similarly uncommon today. Although twenty-two states theoretically permit the death penalty for juveniles, only six (Missouri, Texas, Virginia, Georgia, Oklahoma, and Louisiana) have actually executed a juvenile offender since *Stanford* was decided fifteen years ago. Streib, *supra*, at 3-4. Of these six states, only three have executed juvenile offenders since 1993—Texas, Virginia, and Oklahoma. *Id.* at 4. Louisiana last executed a juvenile offender in 1990, Georgia in 1993. *Id.* at 3. Missouri executed Frederick Lashley in 1993. That is the only officially recorded execution of a juvenile offender in Missouri since the state took over executions from Missouri's counties in 1937.

Perhaps most telling is that, while at least 366 juvenile offenders have been executed in this country since 1642 (when the first juvenile offender execution occurred), only twenty-two of the 366 were carried out during the current era (1973-2004). *Id.* Of these twenty-two executions, Texas,

Virginia, and Oklahoma together account for eighty-one percent of the juvenile executions; Texas alone accounted for 59 percent.[6] *Id.* at 5. Although Alabama, Arizona, Arkansas, Delaware, Idaho, Kentucky, Mississippi, Nevada, Pennsylvania, South Dakota, Utah, and Wyoming all theoretically permit the death penalty for 16-year-olds, and while Florida, New Hampshire, and North Carolina theoretically permit it for 17-year-olds, none of these states has executed a juvenile since the death penalty was re-established in 1976. *Id.* at 3-4, 6. All but South Dakota and New Hampshire, however, have executed other offenders during that period. Indeed, even where juries have imposed a death sentence on a juvenile since the reinstatement of the death penalty in 1976, its application has consistently been reversed by the courts on a variety of grounds, making South Carolina the only other state (other than Texas, Louisiana, Missouri, Georgia, Virginia, and Oklahoma) to carry out a juvenile execution since 1976. *Id.* at 3.

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[6] Texas and Virginia ought not be allowed to skew the Court's survey of our national standards of decency. The Court should treat Texas and Virginia as social scientists would treat outliers in a statistical analysis—statisticians always clip the outliers. Federal constitutional law in this area should be broad and non-regional.

Further the Texas and Virginia execution rates should be clipped statistically, because both states have particularly dysfunctional systems of capital punishment. Both states grossly underfund capital defense at both the trial and appellate level. Neither the Virginia Supreme Court nor the Texas Court of Criminal Appeals provide meaningful state appellate court review. Neither the Fifth Circuit not the Fourth Circuit provide meaningful federal habeas appellate review. *Cf. Tennard v. Dretke*, No. 02-20038, 542 U.S. ___, (U.S. June 24, 2004) (sharply-worded reversal of Fifth Circuit); *Banks v. Dretke*, No. 02-8286, 542 U.S. ___, 72 U.S.L.W. 4193 (U.S. Feb. 24, 2004) (same); Marcia Coyle, *Death Row Inmate Back at High Court: Is 5th Circuit Defying a Supreme Court Ruling?*, National L.J., June 21, 2004 (discussing *Miller El v. Dretke*, No. 03-9659 (certiorari granted, June 28, 2004); Michael Mello, *Friendly Fire: Privacy vs. Security After September 11*, 38 Crim. L. Bull. 367, 393-94 n.53 (2003) (discussing Fourth Circuit).

More mentally retarded persons than juveniles have been executed, in more states, since the death penalty was reinstated in 1976. As *Atkins* noted in regard to the mentally retarded, in light of the small number of executions of juvenile offenders carried out in the last decade, legislatures in states with a juvenile death penalty may have seen little reason to pass legislation barring it. *Atkins*, *supra* at 316. Juveniles are so seldom executed that, other than perhaps in Texas, Virginia, and Oklahoma, the death penalty for juveniles has become so truly unusual that its potential application is more hypothetical than real.

3. *Other Nations: Allies in the War on Terrorists*

That it would offend civilized standards of decency to execute a person who was less than 18 years old at the time of the offense also finds support in the views that have been expressed by "other nations that share our Anglo-American heritage." *Thompson*, 487 U.S. at 830 (plurality); *see also Atkins*, 536 U.S. at 313; *but see Stanford*, 492 U.S. at 369 n.1.

The domestic legislative evidence that age 18 is the appropriate boundary between minority and adult responsibility coincides with international law. The international rejection of the juvenile death penalty was already strong at the time of *Stanford*. Today, the United States stands alone: The U.S. is the only country in which the execution of those under 18 is officially sanctioned, and the only country that has not signed the UN's Convention on the Rights of the Child, which prohibits the practice. *See* Amnesty International, *Juveniles: The Death Penalty Gives Up On Juvenile Offenders* (July 28, 2003), at http://www.amnestyusa.org/abolish/juveniles. Of the last seven juvenile offender executions, five occurred in the United States. *See* Streib, *supra*, at 7.

Perhaps more importantly, the September 11, 2001 terrorist attacks occurred since *Stanford* was decided. We are now a nation at war. The reality of war affects constitutional

adjudication. *E.g.*, *Hamdi v. Rumsfeld*, No. 03-6696, 542 U.S. ___ (U.S. June 28, 2004); *Rasul v. Bush*, No. 03-334, 542 U.S. ___ (U.S. June 28, 2004).

The United States cannot win the war against terrorists without the active cooperation of other nations. After September 11, the good opinion of the world is no longer a matter simply of U.S. pride; it is a matter of national self defense and survival. Whether we like it or not, most of the rest of the world finds capital punishment barbaric, the juvenile death penalty more barbaric still. The geopolitical reality is that elimination of our juvenile death penalty would increase worldwide respect for and cooperation with America as we lead the global war on terror. As we lead the war on terrorism, it will be essential that our domestic standards of law and morality match or exceed the standards of our allies in this war.

C. The Second Prong (the Court's Independent Judgment on Deterrence and Retribution): Establishing a Bright-Line Age Limit of 18 Years Will Not Undermine Deterrence or Retribution, Because the Reasons For Treating Minors Differently From Adults Apply With Special Force Here, Since the Developmental Differences Between Adolescents and Adults Diminish the State's Interest in Inflicting the Death Penalty on Minors

1. *The Law Treats Children Differently Because Children* Are *Different*

The previous section documented ways in which the law treats children differently from adults. This section discusses the reason: The law treats children differently because children *are* different. Specifically, children are different in ways directly connected to the goals of capital punishment—retribution and deterrence. *See Thompson*, *supra*; *but see Stanford*, *supra* (no discussion of deterrence or retribution).

The *Thompson* plurality explained what every parent worth her salt knows from experience: "Less culpability should attach to a crime committed by a juvenile. . . . Inexperience, less education, and less intelligence make the teenager less able to evaluate the consequences of his or her conduct while at the same time he or she is much more apt to be motivated by mere emotion or peer group pressure." *Thompson*, *supra* at 835.

2. *Retribution and Deterrence*

The Court has said that retribution—the expression of society's outrage at particularly offensive conduct—is a legitimate penological goal of capital punishment. *Thompson*, 487 U.S. at 836 (plurality); *Spaziano v. Florida*, 468 U.S. 447, 461-62 (1984); *Enmund*, 458 U.S. at 800-01; *Gregg*, 428 U.S. at 183; *Atkins*, 536 U.S. at 319; *but see Stanford*, *supra* (no discussion of retribution); *Penry*, *supra* (same).

As the *Thompson* plurality observed, the philosophical premises of retribution fail when applied to minors. *Thompson supra* at 834-35. The morality of the anger which fuels the desire for retribution is based on the killer's violation of the social compact. Society has entrusted its citizens with rights, one of which is freedom, and the murderer has grossly abused that freedom. WALTER BERNS, FOR CAPITAL PUNISHMENT 155 (1979). The fallacy of this retributive argument as it applies to minors is precisely that society does *not* entrust minors with such freedom. States do not trust their minors to vote, sit on juries or engage in a wide variety of adult activities.

It is no accident that even in an era in which the public perceives a significant increase in juvenile crime and where public support for capital punishment is overwhelming, juries almost never vote to execute minors—even for especially hideous and high-profile crimes. *See, e.g.*, Mark Wilson, *Convicted Sniper Lee Boyd Malvo Sentenced to Life*, USA Today, March 10, 2004. Many jurors, given the task of ex-

pressing the common sense judgment of the community, recognize that adolescents are developmentally distinct from adults, that adolescents grow up, and that young people are uniquely capable of being rehabilitated. Juries recognize that it is unrealistic and inhumane to treat young offenders as if they have fully mature judgment and control.

Thompson recognized that, in refusing to vote for the ultimate retribution for minors, juries understand the common sense and empirically supported assumption that minors lack the maturity, experience, sophistication and judgment necessary to make many important decisions. "Inexperience, less education, and less intelligence make the teenager less able to evaluate the consequences of his or her conduct while at the same time he or she is much more apt to be motivated by mere emotion or peer pressure than is an adult. The reasons why juveniles are not trusted with the privileges and responsibilities of an adult also explain why their irresponsible conduct is not as morally reprehensible as that of an adult." *Thompson*, 487 U.S. at 835 (plurality). "Children, by definition, are not assumed to have the capacity to take care of themselves." *Schall v. Martin*, 467 U.S. 253, 265 (1984).

Similarly, *Thompson* acknowledged, exempting juveniles from capital punishment would not undermine the deterrent effect of capital punishment. The "death penalty has little deterrent force against defendants who have reduced capacity for considered choice." *Skipper v. South Carolina*, 476 U.S. 1, 13 (1986) (Powell, J., concurring). The *Thompson* plurality noted that adolescents are less likely than adults to calculate consequences rationally; this, indeed, is the premise underlying the states' guardianship and protection of minors. It is unlikely that cold, rational calculation of risks and consequences is involved when minors commit crimes. *Thompson*, *supra* at 837-38; *see also* CLEMENS BARTOLLAS, JUVENILE DELINQUENCY 102 (1985).

The *Thompson* plurality grounded its analysis of retribution and deterrence in research conducted by behavioral psychologists. At the time of *Thompson* and *Stanford*, developmental psychologists had long reported differences between the thinking and behavior of children, adolescents, and adults. The psychological literature remains solid on this score. *See* Feld, *supra*.

However, recent neuroscience research since *Stanford* suggests that these behaviors have *organic* roots—in brain development, biological maturation, and intellectual functioning. *See generally* Feld, *supra* at section III. A. 4 (summarizing studies). In other words, a "hard-science explanation may exist for the soft-science observations of social scientists. Neurobiological science suggests that the human brain does not achieve physiological maturity until the early twenties, and that adolescents simply do not have the same physiologic capability as adults to make mature decisions or to control impulsive behavior." *Id.*; *see also, e.g.*, Claudia Wallis, *Secrets of the Teen Brain*, Time, May 10, 2004 (cover story).

The unifying narrative theme of the social science materials cited in *Thompson*, and of the neuroscience research conducted since *Thompson* and *Stanford*, provide empirical support for the common sense idea that adolescents act differently because they *are* different. These differences go directly to the retributive and deterrent justifications for capital punishment.

D. A Bright-Line Rule Is Appropriate Here, Because There Is No Viable Basis for Distinguishing Among Minors for Purposes of Administration of the Death Penalty, and Because a Bright-Line Rule Would Best Serve the Principles of Federalism

The quandary of line-drawing among minors is, of course a dilemma that the Court has faced on prior occasions. In numerous cases, in numerous factual contexts, the Court has

consistently sounded a single, overarching theme: that minors—simply by virtue of their status as minors—can be deprived of the rights and privileges of adults. The Court's decisions sanctioning legal disabilities for minors treat juveniles as a coherent class, and establish the age of majority as the demarcation between the period of childhood and the period of adulthood. *E.g.*, *Ginsberg v. New York*, 390 U.S. 629 (1968); *Parham v. J.R.*, 422 U.S. 584 (1979); *Schall*, *supra*.

It is instructive to consider the context in which the Court has previously decided questions of juvenile law. Typically, the question presented is whether a certain minor, or class of minors, is sufficiently mature or sophisticated to be treated as an adult and freed of a statutory or administrative restriction that affects all young people. The Court has repeatedly rejected such attempts to draw distinctions between subgroups of minors, and instead has relied on generalizations about the unique nature of childhood and the universal characteristics of children, to treat minors as a single coherent class. *E.g.*, *Schall*, 467 U.S. at 265 ("[c]hildren, by definition, are not assumed to have the capacity to care for themselves"); *Prince v. Massachusetts*, 321 U.S. 158, 168 (1944) (upholding the state's right to restrict a minor's employment opportunities, because "[t]he state's authority over children's activities is broader than over like actions of adults").

1. *The Abortion Cases*

The series of decisions addressing the privacy rights of a young woman to an abortion constitute the only factual context in which the Court has tolerated case-by-case determinations on the basis of the relative maturity or immaturity of individual youths. *E.g.*, *Planned Parenthood v. Casey*, 505 U.S. 833 (1992) (upholding parental consent requirement for immature minors); *Planned Parenthood of Missouri*, *supra*; *Bellotti v. Baird*, 443 U.S. 622 (1979); *H.L. v. Matheson*, *supra*. However, the Court has permitted such case-by-case

determinations only in order to avoid irrevocable harm. In *Bellotti*, the Court recognized that "considering her probable education, employment skills, financial resources, and emotional maturity, unwanted motherhood may be exceptionally burdensome for a minor." 443 U.S. at 642. Accordingly, the Court struck down a parental veto statute that would have imposed the "grave and indelible" consequences of "unwanted motherhood" upon mature minors who were capable of rationally considering the alternatives. *Id.*

A question is sometimes raised as to how a young teen can have the maturity to decide whether or not to have an abortion and yet not be mature enough to be subject to the death penalty. The broadest response to the question is that developmental maturity is always conditional. A teen who is considered able to handle the question of abortion may not be mature enough to act as a guardian or to serve in public office. Contemplating the future consequences of bearing (or not bearing) a child is inherently very different from foreseeing the consequences of killing another person—an act that for a young teen can hardly be labeled a *decision* in an adult sense, especially in light of what has been learned recently about the functioning of the adolescent brain. *See* Nicole Saharsky, Comment, *Consistency as a Constitutional Value: A Comparative Look at Age in Abortion and Death Penalty Jurisprudence*, 85 MINN. L. REV 1119 (2001).

The response from a jurisprudential perspective is even clearer. From *Furman* and *Gregg* to *Thompson* and *Atkins*, the mandate is fairness, and the calculus is consistency. The eighth amendment is offended by the absence of either. Cases raising the issue of the autonomy interest of a pregnant minor *vis a vis* other protectable interests under law do not concern punishment, let alone cruel and unusual punishment. The bright-line that is so essential in establishing consistent classifications under the death penalty scheme is, indeed, counterproductive in the teen abortion/parental notification

context, since the focus is on individual maturity, rather than legal presumptions flowing from one's age. See *Bellotti v. Baird*, 443 U.S. 622, 647 (1979). In sum, teen applicants for autonomy in making decisions about abortion are not even to be compared with each other, and even less with minors facing the death penalty.

Unlike the prior cases involving minors' rights, where an individual minor (or a litigant acting on behalf of the minor) sought to divide artificially the general class of minors into subclasses of mature and immature minors for the sake of expanding mature minors' rights, here it is the state that is asking the Court to engage in such artificial case-by-case decision making. The state asserts, in effect, that certain minors are sufficiently mature and sophisticated so as to fall outside the general category of youth and be subjected to the perquisites (here, the penalties) of adulthood.

The case-by-case decision making urged by the state cannot be squared with the Court's prior decisions in the area of minors' rights. There can be no justification for employing a one-way analysis that forbids case-by-case decision making for the sake of *expanding* minors' rights while employing that very same form of decision making for the sake of *extinguishing* the greatest of all rights, the right to life.

2. *The Risk of Error*

We understand that different people mature at different rates: "17½ -year-olds vary widely." *Yarborough v. Alverado*, No. 02-1684, 542 U.S. ___, 72 U.S.L.W. 4415, 4420 (U.S. June 1, 2004) (O'Connor, J., concurring). There is nothing magical about the 18th birthday.

Establishing a bright-line at age 18 may mean that some especially mature minors might escape the death penalty. However, trials are imprecise instruments, and "maturity" is a slippery concept at best—which means that, under the status quo, some especially immature minors are sentenced to death.

That is one message behind the 86% reversal rate in juvenile capital cases. *See* Streib, *supra* at 8. Both the status quo and the bright-line rule we advocate carry risks of error. We believe that the risk of error ought to be allocated in favor of life over death. *See* Feld, *supra* at section IV.

But focusing on offender maturity and blameworthiness obscures a larger societal truth: This is not just about who the *killers* are. This is also about who *we* are as a society. The controlling eighth amendment inquiry turns on our nation's standards of decency. Perhaps some 17-year-olds are mature enough to die; perhaps some even deserve to die. But we should still choose not to kill them. America should not execute people who were children—so defined by a wide constellation of objective indicia—when they committed murder. We should be better than that.

3. *Federalism: A Bright-Line Rule is Less Injurious to Principles of Federalism*

Federalism also supports a bright-line rule. The government argues that states should be free to set the execution eligibility age limit to lower than age 18, that establishing a bright-line rule at age 18 would offend principles of federalism. But a bright-line age limit would be less injurious to principles of federalism than the status quo today. Today, we know that the Constitution sets *some* minimum age for execution eligibility. We just do not know what that age might be. This vagueness matters: The reversal rate for juvenile death sentences is 86% (133 of 155). *See* Streib, *supra* at 8. Nearly nine out of ten juvenile death sentences have been reversed. Many of those reversals have been at the hands of federal habeas courts. The status quo, not a bright-line age limit of 18, constitutes an unwarranted federal intrusion into state control of its criminal procedure.

An absolute age limit of age 18 would be less of an intrusion on state criminal processes, because it would be clear-cut, in contrast to the current vagueness. Such vagueness

compels continual intervention by the federal courts into state criminal proceedings—not on the basis of applying a concrete principle but by the corrosive and irritating process of case-by-case review. The vagueness of the status quo has not meant, and will not mean, *less* federal intervention in state criminal prosecutions than would be the case if the eighth amendment were construed to establish a bright-line age limit of 18. The status quo means *more* federal intervention on a case-by-case basis—and the relations between federal and state courts would suffer from it. A bright-line age limit of 18 would be a more appropriate adaptation of the eighth amendment to the demands of federalism.

Finally, the practical implications with respect to persons already on death row do not militate against overruling *Stanford* and establishing a bright-line at age 18. The 72 juvenile offenders currently on death row constitute only two percent of the total death row population of approximately 3,500. *See* Streib, *supra* at 11. Since 1973, almost all actual executions have been of adult offenders, so the overall execution rate would be largely unaffected even if the Court were to establish a bright-line at 18. *See* Streib, *supra* at 5. For example, Texas has executed 321 persons in the current era, only 13 (four percent) of whom were juveniles. *Id.* Outside of Texas the rest of the United States has executed 588 persons in the current era, only 19 (1.5 percent) of whom were juvenile offenders. *Id.*

CONCLUSION: "Being Able to Stay Outside and See the Moon and Stars. . . ."

The inevitability of the difficult task of linedrawing is endemic to a Constitution that has chosen not to leave it to the vagaries of isolated juries and trial judges to determine exclusively and irremediably the state of our national conscience. If a constitutional line exists here—and *Thompson* shows that it does—the appropriate place to draw it is at least far clearer in relation to the present subject than in many constitutional

areas. The overwhelming concentration of the relevant objective indicators fix age 18 as the line of full adult responsibility with a clarity that is not merely convenient but compelling when the gravest penal sanction of a society is sought to be exacted of its youth.

Amid the legal arguments and counter arguments made in cases such as this, it is easy to lose track of the truth that these cases affect real lives. Death row prisoners are real people. Their murder victims are real people.

During the 1980s, undersigned counsel represented a Florida death row prisoner named Paul Magill. *See* MICHAEL MELLO, DEATHWORK 148-161 (2002); Michael Mello, *"In the Years When Murder Wore the Mask of Law": Diary of a Capital Appeals Lawyer*, 24 VT. L. REV. 583, 596-97 n.67, 1026-27, 1096-1124, 1148-50 (2000). Magill was 17 years old when he committed murder. He is 47 today. In 1988, Magill was resentenced to life in prison. Counsel remains in touch with Paul Magill and Mary Lou Magill, Paul's mother. Counsel recently received a letter from Paul:

January 31, 2004

Dear Mike

Greetings from Sunny Florida. It's a sunny 50 something outside now. The temp has been up and down for the past couple months. The weatherman can't seem to make up his mind.

As you can see by my return address, I'm no longer at Union. I got transferred out of the triangle (Starke, Raiford, Lake Butler) this past October, after 27 years in that area. After 10 days in transit at Lake Butler and Orlando CFRC, I arrived here on October 13. Got to see a lot of new buildings and road construction on the way here. And this place is so much bigger than FSP or UCI. It's still strange living in an open bay dorm and being able to stay outside and see the moon and stars until 9:30 pm.

Two and a half weeks after getting here, I started work in the Pride Work furniture factory here. So I've now worked for PRIDE 8 years and 4 months. I'm focusing solely on inventory control now, so I have less responsibilities than I had at Union Pride Metal. That goes along with my cut in pay and hours worked. Where I was getting a hundred hours every 2 weeks at 55¢ at Union, I'm now getting 64 hours at 45¢, a drastic reduction in income. I've also lost over 30 lbs. which has helped a great deal.

There are more programs here. I'm currently involved in the Lifer's Club, which offers a number of instructional and self improvement programs.

I've started putting together a Parole Plan, in anticipation of my second Parole Hearing next year in May. I've been attempting to contact people who could be prospective employers, transition programs. So far I haven't heard anything back. After over 27 years there are very few people I am familiar with in Marion County. I've been fishing for addresses and introducing myself to total strangers. I'm having to develop some very different communication skills from those I've relied on during my time in prison. It's like I'm a salesman, knocking on doors and making my sales pitch to people who don't know me and have no reason to trust me. I try to tell them as much as I can about me, without taking too much time and boring them. You don't happen to know anybody in the Ocala/Belleview area whom I could contact, do you?

I hope all is well with you and Deanna.

Sincerely yours,

Paul Magill
059128

Respectfully submitted,

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July 16, 2004

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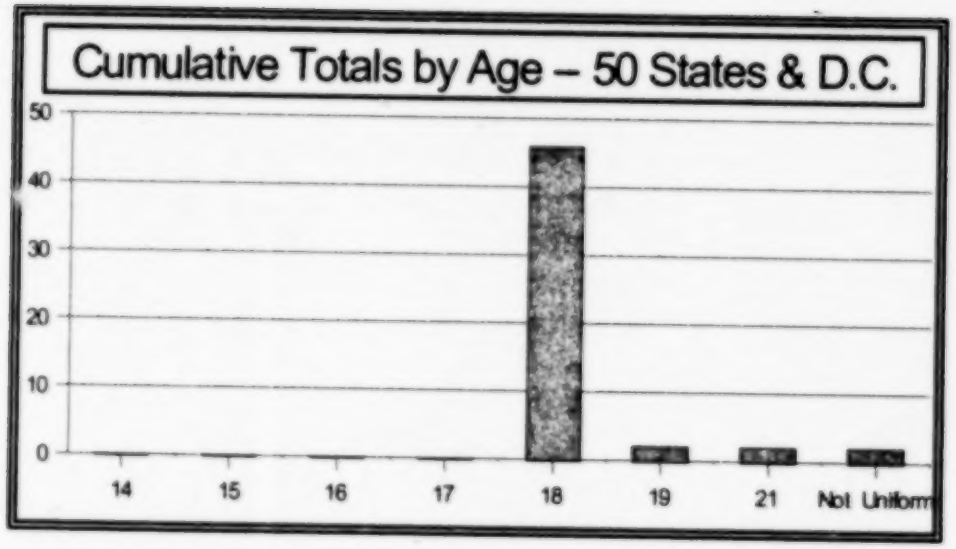
* Counsel gratefully acknowledges the assistance of several Vermont Law School students who provided invaluable assistance on this brief: Bakhtyar Talia, Alexander Nuti-de-Baisi, Forrest Bell, Kristen Campbell, Barrett Schultz, and Heather Whitney.

This brief is dedicated to Ida S. Mello. *See generally* Yvonne Lamb, *A Local Life: Ida S. Mello: Virginia Woman's Warmth, Caring Knew No Boundry*, Wash. Post, March 21, 2004.

APPENDIX A

Age of Majority**



** One state (MO) has no uniform age of majority.

Totals (50 States and D.C.)

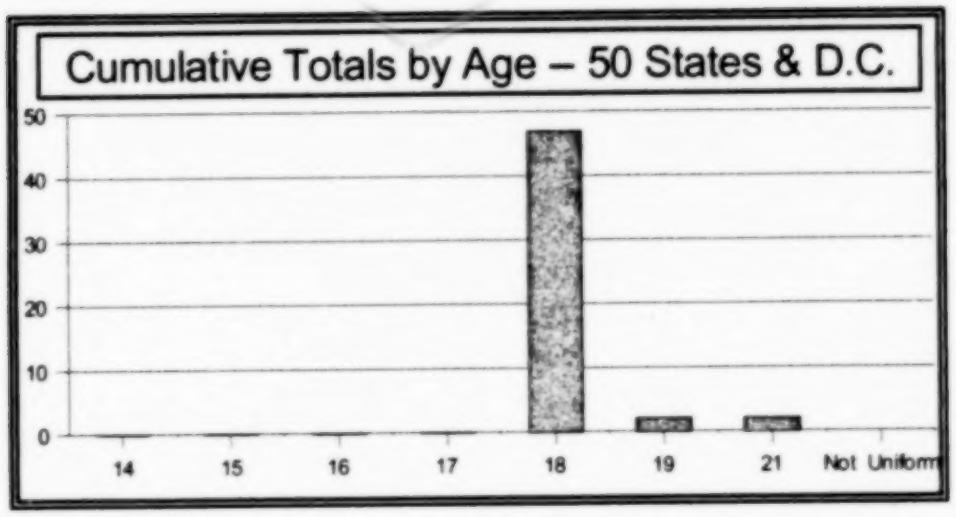
Age	18	19	21	Not Uniform
Number	46	2	2	1

STATE	AGE	CITATION
AL	19	Ala. Code §26-1-1 (2003)
AK	18	Alaska Stat. §25.20.010 (2003)
AZ	18	Ariz. Rev. Stat. Ann. §1-215 (2003)
AR	18	Ark. Stat. Ann. §9-25-101 (2003)
CA	18	Cal. Fam. Code §6500 (2004)
CO	18	Colo. Rev. Stat. §13-22-101 (2004)
CT	18	Conn. Gen. Stat. §1-1d (2003)
DE	18	Del. Code Ann. tit. 1, §701 (2003)
DC	18	DC St. §46-101 (2003)
FL	18	Fla. Stat. Ann. §743.07 (2003)
GA	18	OCGA §39-1-1 (2003)
HI	18	Haw. Rev. Stat. §577-1 (2003)
ID	18	Idaho Code §32-101 (2003)
IL	18	755 ILCS 5/11-1 (2003)
IN	18	In. St. 1-1-4-5, IC 1-1-4-5 (2003)
IA	18	Iowa Code Ann. §599.1 (2003)
KS	18	Ks. St. §38-101 (2002)
KY	18	Ky. St. §2.015 (2003)
LA	18	LSA-C.C. art. 29 (2003)
ME	18	Me. Rev. Stat. Ann. tit. 1, §72 (2003)
MD	18	Md. Code, art. 1, §24 (2004)
MA	18	M.G.L.A. 4 §7, cl. (51) (2004)
MI	18	Mich. Comp. Laws Ann. §722.52 (2003)
MN	18	Mn. St. §645.451 (2004)
MS	21	Miss. Code. Ann. §1-3-27 (2003)
MO	-	No Uniform Age
MT	18	Mt. St. 41-1-101 (2003)
NE	19	Neb. St. §43-2101 (2003)
NV	18	Nev. Rev. Stat. §129.010 (2003)
NH	18	N.H. Rev. Stat. Ann. 21:44 (2003)

NJ	18	N.J.S.A. 9:17B-3 (2003)
NM	18	N.M. St. §28-6-1 (2003)
NY	18	McKinney's D.R.L. §2, McKinney's CPLR §105(j) (2004)
NC	18	N.C.G.S.A. §48A-2 (2003)
ND	18	N.D. St. 14-10-01 (2003)
OH	18	Ohio Rev. Code Ann. §3109.01 (Baldwin 2003)
OK	18	15 Okl. St. Ann. §13 (2003)
OR	18	O.R.S. §109.510 (2001)
PA	21	1 Pa. C.S.A. §1991 (2003)
RI	18	R.I. §15-12-1 (2002)
SC	18	S.C. Const. art. XVII, §14 (2003)
SD	18	S.D. Codified Laws Ann. §26-1-1 (2003)
TN	18	Tenn. Code Ann. §1-3-105 (2003)
TX	18	V.T.C.A., Civil Practice & Remedies Code §129.001 (2003)
UT	18	Utah Code Ann. §15-2-1 (2003)
VT	18	Vt. Stat. Ann. tit. 1, §173 (2003-2004)
VA	18	Va. Code Ann. §1-13.42 (2003)
WA	18	Wa. St. 26.28.010 (2004)
WV	18	W. Va. Code §2-2-10 (aa) (2003)
WI	18	W.S.A. §938.02(1) (2003) (defining "adult" for all purposes except criminal investigation or prosecution
WY	18	Wyo. Stat §14-1-101 (2003)

APPENDIX B

Right to Serve on Jury



Totals (50 States and D.C.)

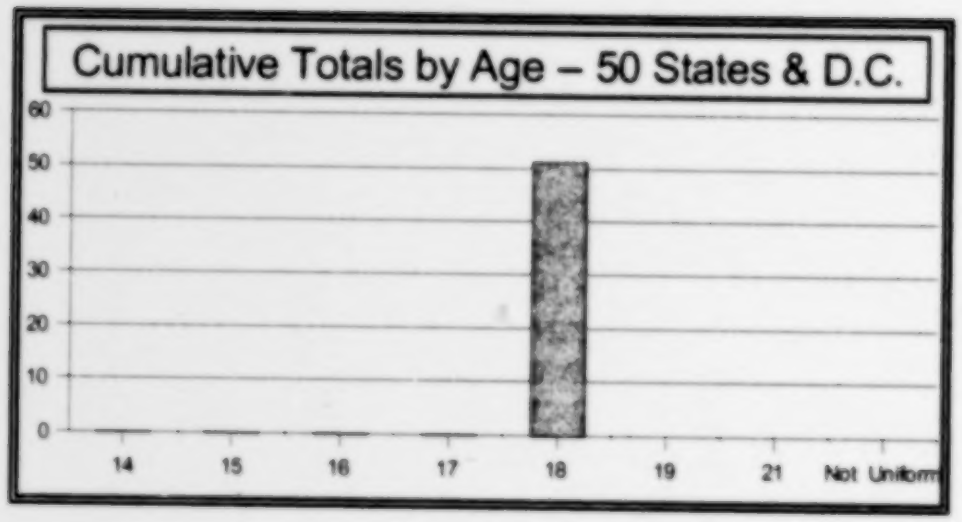
Age	18	19	21
Number	47	2	2

STATE	AGE	CITATION
AL	19	Ala. Code §12-16-60(a)(1) (2003)
AK	18	Ak. Stat. §09.20.010(a)(3) (2003)
AZ	18	Ariz. Rev. Stat. Ann. §21-301(D) (2003)
AR	18	Ark. Stat. §16-31-101(2003) (by inference)
CA	18	West's Ann. Cal. C.C.P. §203 (2004)
CO	18	C.R.S.A. §13-71-109(2)(a) (2004)
CT	18	Conn. Gen. Stat. §51-217 (2003)
DE	18	De. St. tit. 10, §4509(b)(2) (2003)
DC	18	D.C. Code Ann. §11-1906(b)(1)(C) (2003)
FL	18	Fla. Stat. Ann. §40.01 (2003)
GA	18	Ga. Code Ann., §15-12-163(b)(2) (2003); Ga. Code Ann., §15-12-60(a) (2003)
HI	18	Haw. Rev. Stat. §612-4(a)(1) (2003)
ID	18	Idaho Code §2-209(2)(a) (2003)
IL	18	705 ILCS 305/2 (2003)
IN	18	IC 33-4-5-7(B)(1) (2003)
IA	18	I.C.A. §607(A).4 (2003)
KS	18	Kan. Stat. Ann. §43-156 (2002)
KY	18	Ky. Rev. Stat. Ann. §29A.080(2)(a) (2003)
LA	18	La. Code Crim. Proc. Ann. art. 401(a)(2) (2003)
ME	18	Me. Rev. Stat. Ann. tit. 14, §1211 (2003)
MD	18	Md. Cts. & Jud. Proc. Code Ann. §8-104 (2004)
MA	18	Mass. Gen. Laws. Ann. ch. 234, §1 (2003), ch. 51, §1 (2003)
MI	18	Mich. Comp. Laws Ann. §600.1307a(1)(a) (2003)
MN	18	Minn. Gen. R. Prac., Rule 808(b) (2003)
MS	21	Miss. Code Ann. §13-5-1 (2003)

MO	21	V.A.M.S. §494.400 (2003), V.A.M.S. §494 425 (2003)
MT	18	Mont. Code Ann. §3-15-301 (2003), Mt. Const. art. 4, §2 (2003)
NE	19	Neb. Rev. Stat. §25-1601 (2003)
NV	18	Nev. Rev. Stat. §6.010 (2003), 55 ILCS 5/1-5013 (2003)
NH	18	N.H. Rev. Stat. §500-A:7-a (2003)
NJ	18	N.J.S.A. 2B:20-1 (2003)
NM	18	N.M. St. §38-5-1 (2003)
NY	18	N.Y. Judiciary Law §510(2) (2003)
NC	18	N.C. Gen. Stat. §9-3 (2003)
ND	18	N.D. Cent. Code §27-09.1-08(2)(b) (2003)
OH	18	Ohio Rev. Code Ann. §2313.42 (2003)
OK	18	Okla. Stat. Ann. tit. 38, §28 (2003)
OR	18	Or. Rev. Stat. §10.030(2)(c), (3)(a)(c) (2003)
PA	18	Pa. Stat. Ann. tit. 42, §4521 (2003)
RI	18	R.I. Gen. Laws §9-9-1(a)(2) (2003)
SC	18	S.C. Code Ann. §14-7-130 (2003)
SD	18	S.D. Codified Laws Ann. §16-13-10 (2003)
TN	18	Tenn. Code Ann. §22-1-101 (2003)
TX	18	Tex. Gov't Code Ann. §62.102 (2003)
UT	18	Utah Code Ann. §78-46-7(1)(b) (2003)
VT	18	Vt. St. tit. 4, §962 (2003-2004)
VA	18	Va. Code Ann. §8.01-337 (2003)
WA	18	Wash. Rev. Code Ann. §2.36.070 (2004)
WV	18	W. Va. Code §52-1-8(b)(1) (2003)
WI	18	W.S.A. §756.02 (2003)
WY	18	Wyo. Stat. §1-11-101 (2003)

APPENDIX C

Right to Vote



Totals (50 States and D.C.)

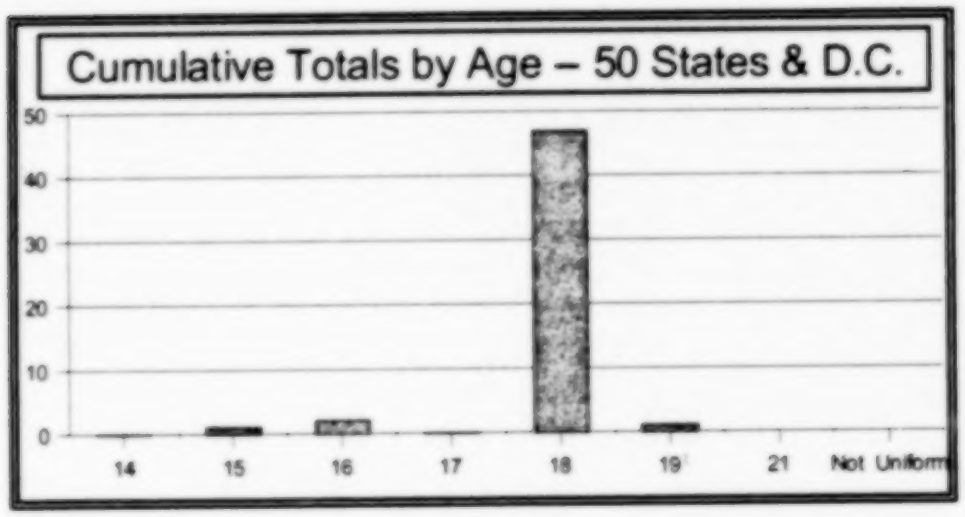
Age	18
Number	51

STATE	AGE	CITATION
AL	18	Al. Const. Amend. No. 579 (2003)
AK	18	Ak. Const. art. 5, §1 (2003); Ak. St. §15.05.010 (2003)
AZ	18	Az. St. §16-121 (2003); Az. Const. art. 7, §2 (2004)
AR	18	Ar. Const. art. 3, §1 (2003)
CA	18	Cal. Const. art. 2, §2 (2004)
CO	18	Colo. Rev. Stat. §1-2-101 (2004)
CT	18	Ct. Const. art. 6, §1 (2003); Conn. Gen. Stat. §9-12 (2003)
DE	18	De. St. tit. 15, §1701 (2003)
DC	18	D.C. St. §1-1001.02(2)(b) (2003)
FL	18	Fla. Stat. Ann. §97.041 (2003)
GA	18	Ga. Const. art. 2, §1, para 2(2003)
HI	18	Haw. Rev. Stat. tit. 2, §11-12 (2003)
ID	18	Idaho Code §34-402 (2003)
IL	18	Il. St. ch. 10 §5/7-43 (2003)
IN	18	In. St. 3-7-13-1 (2003)
IA	18	I.C.A. §48A.5 (2003)
KS	18	Kan. Const. art. 5, §1 (2003)
KY	18	Ky. Const. §145 (2003)
LA	18	La. Const. art. 1, §10(A) (2004); La. Rev. Stat. Ann. §18:101 (2003)
ME	18	Me. Rev. Stat. Ann. tit. 21-A, §111(2) (2003)
MD	18	Md. Code, Election Law, §3-102(a) (2004)
MA	18	Mass. Gen. Laws Ann. ch. 51, §1 (2004)
MI	18	Mich. Comp. Laws Ann. §168.492 (2003)
MN	18	Minn. Stat. Ann. §201.014 (2003)
MS	18	Miss. Const. art. 12, §241 (2003)
MO	18	Mo. Const. art. VIII, §2 (2003)

MT	18	Mont. Const. art. IV, §2 (2003); Mt St 13-1-111 (2003)
NE	18	Neb. Rev. St. Const. art. VI, §1 (2003); Neb. Rev. Stat. §32-223 (2003)
NV	18	Nev. Rev. Stat. §293.485 (2003)
NH	18	N.H. Const., Pt. 1, Art. 11 (2003)
NJ	18	N.J. Const. art 2, §1, para. 3 (2003)
NM	18	N.M. St. §1-21-2 (2003)
NY	18	N.Y Elec. Law §5-102 (2003)
NC	18	N.C. Gen. Stat. §163-55 (2003)
ND	18	N.D. Const. art. II, §1 (2003)
OH	18	Ohio Const. art. V, §1 (2003); Ohio Rev. Code Ann. §§3503.01 & 3503.11 (2003)
OK	18	Okla. Const. art. III, §1 (2003)
OR	18	Or. Const. art. II, §2 (2003)
PA	18	Pa. Stat. Ann. tit. 25, §2811 (2003)
RI	18	R.I. Gen. Laws §17-1-3 (2003)
SC	18	S.C. Code Ann. §7-5-610 (2003)
SD	18	S.D. Const. art. VII, §2 (2001); S.D. Codified Laws Ann. §12-3-1 (2001)
TN	18	Tenn. Code Ann. §2-2-102 (2003)
TX	18	V.T.C.A., Election Code §11.002 (2003)
UT	18	Ut. St. §20A-2-101 (2003)
VT	18	Vt. Stat. Ann. tit. 17, §2121 (2003-2004)
VA	18	Va. Const. art. II, §1 (2003)
WA	18	Wash. Const. art. VI, §1, (2003)
WV	18	W. Va. Code §3-1-3 (2003)
WI	18	Wis. Const. art. 3, §1 (2004) W.S.A. 6.02 (2003); W.S.A. 6.05 (2003)
WY	18	Wy. St. §22-3-102 (2003)

APPENDIX D

Right to Marry Without Parental Consent



Totals (50 States and D.C.)

Age	15	16	18	19
Number	1	2	47	1

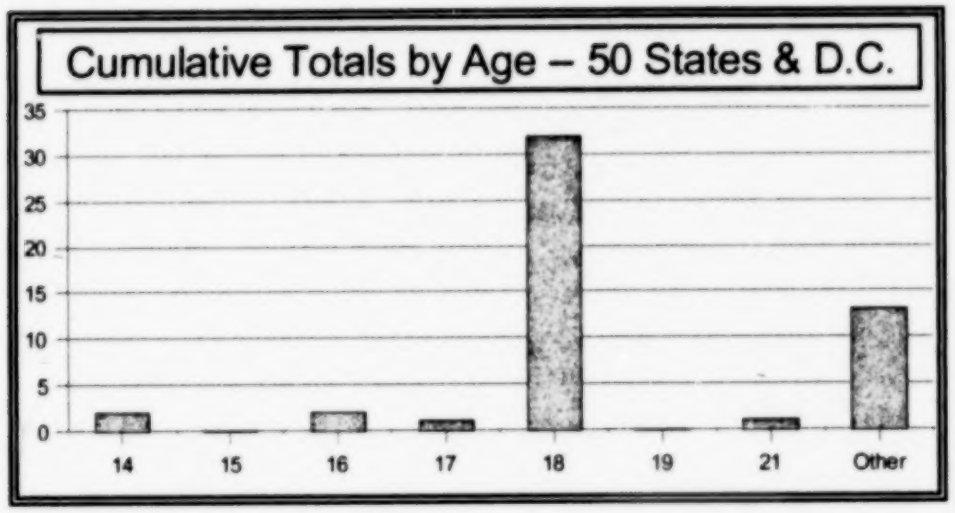
STATE	AGE	CITATION
AL	18	Ala. Code §30-1-5 (2003)
AK	18	Alaska Stat. §25.05.171 (2003) (judge may permit minor to marry without parental consent, even in the face of parental opposition, in certain circumstances)
AZ	18	Az. St. §25-102 (2003)
AR	18	Ark. Stat. Ann. §9-11-102 through 9-11-105 (2003)
CA	18	West's Ann. Cal. Fam. Code §301 (2004); Ca. Fam. §302 (2004)
CO	18	Colo. Rev. Stat. §14-2-106(1)(a)(I) (2004)
CT	18	Conn. Gen. Stat. §46b-30 (2003)
DE	18	Del. Code Ann. tit. 13, §123 (2003)
DC	18	D.C. Code §46-411 (2003)
FL	18	Fla. Stat. Ann. §741.04 (2003); West's F.S.A. §741.0405 (2003)
GA	16	OSCGA §19-3-37 (1982)
HI	18	Haw. Rev. Stat. §572-2 (2003)
ID	18	Idaho Code §32-202 (2003)
IL	18	750 I.L.C.S. 5/203 (2003)
IN	18	I.C. 31-11-1-4 (2003); I.C. 31-11-1-6 (2003)
IA	18	Iowa Code Ann. §595.2 (2003)
KS	18	Kan. Stat. Ann. §23-106 (2002)
KY	18	Ky. Rev. Stat. Ann. §402.210 (2003)
LA	18	La. Civ. Code Ann. art. 87 (Supp. 1988) (minors not legally prohibited from marrying, even without parental consent, but marriage ceremony required); La. Rev. Stat. Ann. §9:21 (Supp. 1988) (official

		may not perform marriage ceremony in which a minor is a party without parental consent; Comments to Civ. Code Ann. art. 87 suggest that such a marriage is valid but that official may face sanctions)
ME	18	Me. St. tit. 19, §652 (2003)
MD	16	Md. Fam. Law Code Ann. §2-301 (Supp. 1987)
MA	18	Mass. Gen. Laws. Ann. Ch. 207 §7 (2004)
MI	18	Mich. Comp. Laws Ann. §551.103 (2003)
MN	18	Minn. Stat. Ann. §517.02 (2004)
MS	15	Miss. Code Ann. §93-1-5(d) (Supp. 1987) (female may marry at 15 without parental consent)
MO	18	Mo. Ann. Stat. §451.090 (2003)
MT	18	Mont. Code Ann. §40-1-202 (2003)
NE	19	Neb. Rev. Stat. §42-105 (2003); Neb. St. §43-2101 (2003)
NV	18	Nev. Rev. Stat. §122.020 (2003)
NH	18	N.H. Rev. Stat. Ann. §457:5 (2003)
NJ	18	N.J.S.A. 37:1-6 (2003)
NM	18	N.M. Stat. Ann. §40-1-6 (2003)
NY	18	McKinney's D.R.L. §15 (2004); N.Y. Dom. Rel. §15 (2003)
NC	18	N.C. Gen. Stat. §51-2 (2003)
ND	18	N.D. Cent. Code §14-03-02 (2003)
OH	18	Ohio Rev. Code Ann. §3101.01 (2003)
OK	18	Okla. Stat. Ann. tit. 43, §3 (2003)
OR	18	Or. Rev. Stat. §106.060 (2001)
PA	18	23 Pa. C.S.A. §1304 (2003)
RI	18	R.I. Gen. Laws §15-2-11 (2003)
SC	18	S.C. St. §20-1-250 (2003); SC ST §20-1-100 (2003)
SD	18	S.D. Codified Laws Ann. §25-1-9 (2003)
TN	18	Tenn. Code Ann. §36-3-106 (2003)

TX	18	V.T.C.A., Family Code §2.101 (2003); V.T.C.A., Family Code §2.102 (2003)
UT	18	Utah Code Ann. §30-1-9 (2003)
VT	18	Vt. Stat. Ann. tit. 18, §5142 (2003-2004)
VA	18	Va. Code Ann. §20-48 (2003)
WA	18	Wash. Rev. Code Ann. §26.04.210 (2004)
WV	18	W. Va. Code §48-2-301 (2003)
WI	18	Wis. Stat. Ann. §765.02 (2003)
WY	18	Wyo. Stat. §20-1-102(c) (2003)

APPENDIX E

Consent to Most Forms of Medical Treatment



Totals (50 States and D.C.)

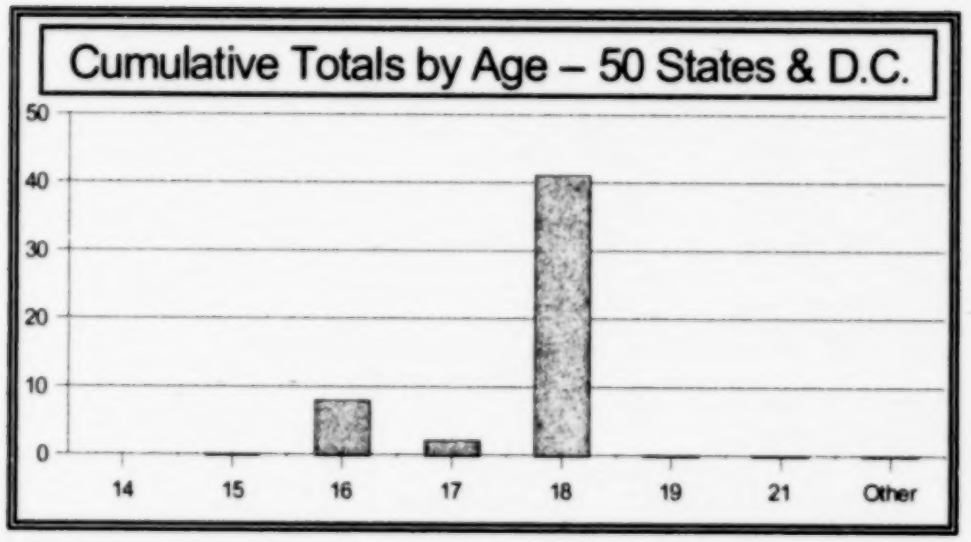
Age	14	15	16	17	18	21	Other
Number	2	0	2	1	32	1	13

STATE	AGE	CITATION
AL	14	Ala. Code §22-8-4 (2003)
AK	18	Alaska Stat. §25.20.025 (2003)
AZ	18	Ariz. Rev. Stat. Ann. §44-132 (2004)
AR	Minor of Sufficient Intelligence	Ark. Code Ann. §20-9-602 (2003)
CA	Any Minor	Cal. Fam. Code §6920 (2004)
CO	18	Colo. Rev. Stat. §13-22-103 (2003)
CT	18	Conn. Gen. Stat. Ann. §46b-150d (2003)
DE	18	Del. Code. Ann. tit. 13, §707 (2004)
DC	-	No Legislation
FL	Any Minor	Fla. Stat. Ann. §743.064 (2003)
GA	18	Ga. Code Ann. §31-8-2 (2002)
HI	17	Haw. Rev. Stat. §577A-2 (2003)
ID	14	Idaho Code §39-801 (2003)
IL	18	410 Ill. Comp. Stat. 210/1 (2004)
IN	18	Ind. Code Ann. §16-36-1-3 (Michie 2004)
IA	18	Iowa Code §147.137 (2003)
KS	18	Kan. Stat. Ann. §38-122 (2003)
KY	18	Ky. Rev. Stat. Ann. §216B.400 (Michie 2002)
LA	18	La. Rev. Stat. Ann. §40:1095 (2004)
ME	18	Me. Rev. Stat. tit. 32, §3292 (2003)
MD	Any Minor	Md. Code Ann., Health-Gen. §20-102 (2003)
MA	18	Mass. Ann. Laws ch. 112, §12F (Law. Co-op. 2004)

MI	-	No Legislation
MN	18	Minn. Stat. Ann. §144.341 (2003)
MS	21	Miss. Code Ann. §41-41-3 (2004)
MO	18	Mo. Ann. Stat. §431.061 (2004)
MT	18	Mont. Code Ann. §41-1-402 (2003)
NE	-	No Legislation
NV	18	Nev. Rev. Stat. Ann. 129.030 (2004)
NH	-	No Legislation
NJ	18	N.J. Stat. Ann. §9:17B-1(A) (2004)
NM	18	N.M. Stat. Ann. §24-10-1 (2003)
NY	18	N.Y. Pub. Health Law§ 2504 (2003)
NC	18	N.C. Gen. Stat. §90-21.1 (2004)
ND	18	N.D. Cent. Code §14-10-17.1 (2003)
OH	18	Ohio Rev. Code Ann. §2317.54 (Anderson 2003)
OK	18	Okla. Stat. Ann. tit. 63, §2602 (2003)
OR	18	Or. Rev. Stat. §109.640 (2001)
PA	18	Pa. Stat. Ann. tit. 35, §10101(2003)
RI	16	R.I. Gen. Laws §23.4.6-1 (2003)
SC	16	S.C. Code. Ann. §20-7-280 (Law. Co-op. 2003)
SD	18	S.D. Codified Laws §20-9-4.2 (2003)
TN	Any Minor	Tenn. Code. Ann. §63-6-229 (2003)
TX	18	Tex. Fam. Code Ann. §32.003 (2004)
UT	-	No Legislation
VT	-	No Legislation
VA	18	Va. Code Ann. §16.1-334 (2003)
WA	18	Wash. Rev. Code Ann. §26.28.015(5) (2004)
WV	-	No Legislation
WI	-	No Legislation
WY	18	Wyo. Stat. Ann. §35-2-614 (2003)

APPENDIX F

Right to Drive Without Parental Consent



Totals (50 States and D.C.)

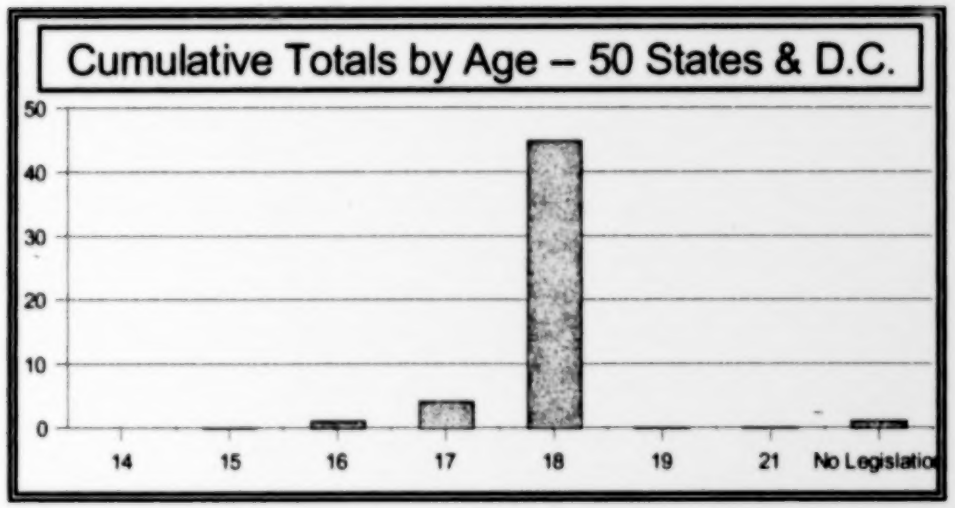
Age	16	17	18
Number	8	2	41

STATE	AGE	CITATION
AL	16	Ala. Code §32-6-7(1) (2003)
AK	18	Alaska Stat. §28.15.071 (2003)
AZ	18	Ariz. Rev. Stat. Ann. §28-3160 (2004)
AR	18	Ark. Code Ann. §27-16-702 (2003)
CA	18	Cal. Veh. Code §12512 (2004)
CO	18	Colo. Rev. Stat. §42-2-108 (2003)
CT	18	Conn. Gen. Stat. Ann. §14-36 (2003)
DE	18	Del. Code Ann. tit. 11, §2707(a) (2004)
DC	16	D.C. Code Ann. §50-1401.01 (2003)
FL	18	Fla. Stat. Ann. §322.09 (2003)
GA	18	Ga. Code Ann. §40-5-26 (2002)
HI	18	Haw. Rev. Stat. §286-112 (2003)
ID	18	Idaho Code §49-310 (2003)
IL	18	625 Ill. Comp. Stat. 5/6-103 (2004)
IN	18	Ind. Code Ann. §9-24-9-3 (Michie 2004)
IA	18	Iowa Code §321.177 (2003)
KS	16	Kan. Stat. Ann. §8-237 (2003)
KY	18	Ky. Rev. Stat. Ann §186.470 (Michie 2002)
LA	18	La. Rev. Stat. Ann. §32:407 (2004)
ME	18	Me. Rev. Stat. tit. 29, §1302 (2003)
MD	18	Md. Code Ann., Transp. §16-103 (2003)
MA	18	Mass. Ann. Laws ch. 90, §8 (Law. Co-op. 2004)
MI	18	Mich. Comp. Laws §257.308 (2003)
MN	18	Minn. Stat. Ann. §171.04 (2003)
MS	17	Miss. Code Ann. §61-1-23 (2004)
MO	16	Mo. Ann. Stat. §302.060 (2004)
MT	16	Mont. Code Ann. §61-5-105 (2003)
NE	17	Neb. Rev. Stat. Ann. §60-4,118.05 (2003)
NV	18	Nev. Rev. Stat. Ann. 483.250 (2004)

NH	18	N.H. Rev. Stat. Ann. §263:17 (2003)
NJ	18	N.J. Stat. Ann. §39:3-10 (2004)
NM	18	N.M. Stat. Ann. §66-5-11 (2004)
NY	18	N.Y. Veh. & Traf. Law §502(2)(b) (2003)
NC	18	N.C. Gen. Stat. §20-10 (2004)
ND	18	N.D. Cent. Code §39-06-08 (2003)
OH	18	Ohio Rev. Code Ann. §4507.07 (Anderson 2003)
OK	16	Okla. Stat. Ann. tit. 47, §6-107 (2003)
OR	18	Or. Rev. Stat. §807.060(2)(a) (2001)
PA	17	Pa. Stat. Ann. tit. 75, §1503(a)(7) (2003)
RI	16	R.I. Gen. Laws §31-10-3 (2003)
SC	18	S.C. Code. Ann. §56-1-100 (Law. Co-op. 2003)
SD	18	S.D. Codified Laws §32-12-6 (2003)
TN	18	Tenn. Code. Ann. §55-50-312 (2003)
TX	16	Tex. Transp. Code Ann. §521.204 (2004)
UT	18	Utah Code Ann. §53-3-211 (2003)
VT	18	Vt. Stat. Ann. tit. 23, §607 (2003)
VA	18	Va. Code Ann. §46.2-334(2003)
WA	18	Wash. Rev. Code Ann. §46.20.100 (2004)
WV	18	W. Va. Code §§ 17B-2-3 to 17B-2-3(a) (2003)
WI	18	Wis. Stat. Ann. §343.08 (2003)
WY	18	Wyo. Stat. Ann. §31-7-112 (2003)

APPENDIX G

Right to Purchase Pornographic Materials



Totals (50 States and D.C.)

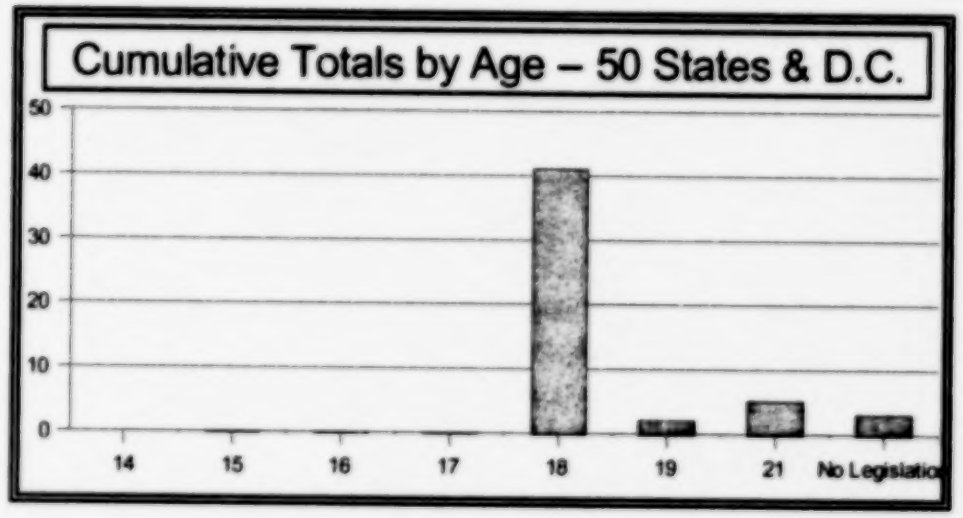
Age	16	17	18	No Legislation
Number	1	4	45	1

STATE	AGE	CITATION
AL	18	Ala. Code §13A-12-200.5 (2003)
AK	-	No Legislation
AZ	18	Ariz. Rev. Stat. §13-3506 (2004)
AR	18	Ark. Code Ann. §5-68-502(2) (2003)
CA	18	Cal. Penal Code §313.1 (2004)
CO	18	Colo. Rev. Stat. §18-7-502 (2003)
CT	18	Conn. Gen. Stat. §53a-196 (2003)
DE	17	Del. Code Ann. tit. 11, §1365 (2004)
DC	17	D.C. Code Ann. §22-2001(b) (2003)
FL	18	Fla. Stat. Ann. §847.012 (2003)
GA	18	Ga. Code Ann. §16-12-103 (2002)
HI	16	Haw. Rev. Stat. §712-1215 (2003)
ID	18	Idaho Code §18-1513 (2003)
IL	18	720 Ill. Comp. Stat. 5/11-21 (2004)
IN	18	Ind. Code Ann. §35-49-3-3 (Michie 2004)
IA	18	Iowa Code §728.2 (2003)
KS	18	Kan. Stat. Ann. §21-4301a (2003)
KY	18	Ky. Rev. Stat. Ann. §531.030 (Michie 2002)
LA	17	La. Rev. Stat. Ann. §14:91.11 (2004)
ME	18	Me. Rev. Stat. tit. 17, §2911 (2003)
MD	18	Md. Code Ann., Criminal Law §11-203 (2003)
MA	18	Mass. Ann. Laws ch. 272, §28 (Law. Co-op. 2004)
MI	18	Mich. Comp. Laws Ann. §750.142 (West 2004)
MN	18	Minn. Stat. Ann. §617.293 (West 2004)

MS	18	Miss. Code Ann. §97-5-27 (2003)
		MO 18 Mo. Ann. Stat. §753.040 (West 2003)
MT	18	Mont. Code Ann. §45-8-206 (2003)
NE	18	Neb. Rev. Stat. §28-208 (2003)
NV	18	Nev. Rev. Stat. Ann. 201.265 (2003)
NH	18	N.H. Rev. Stat. Ann. §571-B:2 (2003)
NJ	18	N.J. Stat. Ann. §2C:34-2(b) (2003)
NM	18	N.M. Stat. Ann. §30-37-2 (2003)
NY	17	N.Y. Penal Law §§ 235.21 to 235.22 (2004)
NC	18	N.C. Gen. Stat. §19-13 (2003)
ND	18	N.D. Cent. Code §12.1-27.1-03 (2003)
OH	18	Ohio Rev. Code Ann. §2907.31 (West 2003)
OK	18	Okla. Stat. Ann. tit. 21, §1040.76 (West 2003)
OR	18	Or. Rev. Stat. §167.065 (2001)
PA	18	18 Pa. Cons. Stat. Ann. §5903(a)(2) (West 2003)
RI	18	R.I. Gen. Laws §11-31-10 (2003)
SC	18	S.C. Code. Ann. §16-15-345 (Law. Co-op. 2003)
SD	18	S.D. Codified Laws §22-24-28(2003)
TN	18	Tenn. Code. Ann. §§ 39-17-911 and 39-17-914 (2003)
TX	18	Tex. Penal Code Ann. §43.24(b) (2003)
UT	18	Utah Code Ann. §76-10-1206 (2003)
VT	18	Vt. Stat. Ann. tit. 13, §§ 2802 to 2802(a) (2004)
VA	18	Va. Code Ann. §18.2-391(2003)
WA	18	Wash. Rev. Code Ann. §9.68.080 (2004)
WV	18	W. Va. Code §61-8A-2 (2003)
WI	18	Wis. Stat. Ann. §944.21(4) (2003)
WY	18	Wyo. Stat. Ann. §6-4-302(b)(ii) (2003)

APPENDIX H

Right to Participate in Legalized Gambling in any Form



Totals (50 States and D.C.)

Age	18	19	21	No Legislation or No Legalized Gambling
Number	42	1	5	3

STATE	TYPE	AGE	CITATION
AL	Pari-mutuel Betting	19	Ala. Code §11-65-44 (2003)
AK		-	No Legislation
AR	Pari-mutuel Betting	18	Arkansas Stat. §23-110-405 (2003)
AZ	Lottery	21	Ariz. Rev. Stat. Ann. §5-515 (2003)
	Pari-mutuel Betting	21	Ariz. Rev. Stat. Ann. §5-112 (2003)
CA	Lottery	18	Cal. Govt. Code §8880-52 (2004)
CO	Lottery	18	Colo. Rev. Stat. Ann. §24-35-214 (2004)
	Pari-mutuel	18	Colo. Rev. Stat. Ann. §12-60-601 (2004)
	Casinos	21	Colo. Rev. Stat. Ann. §12-47.1-809 (2004)
CT	Lottery	18	Conn. Gen. Stat. Ann §12-813 (2003)
	Pari-mutuel	18	Conn. Gen. Stat. Ann. §12-576 (2003)
DE	Lottery	18	Dela. Const. art. 2, §17 (2003)
DC	Lottery	18	D.C. Code §3-1334 (2003)
FL	Small Stakes	18	Fla. Stat. Ann. §849.085 (2003)
	Lottery	18	Fla. Stat. Ann. §24.1055 (2003)
GA	Lottery	18	Ga. Code Ann. §50-2710 (2003)

HI	Social Gambling	18	Haw. Rev. Stat. 712-1231 (2003)
ID	Lottery	18	Ida. Stat. §67-7413 (2003)
IL	Lottery	18	20 Ill. Comp. Stat. Ann. §1605/15 (2003)
	Casinos	21	230 Ill. Comp. Stat. Ann. §10/18 (2003)
IN	Lottery	18	Ind. Code Ann. §4-30-11-3 (2003)
IA	Lottery	21	Iowa Code Ann. §99E.18(2) (2003)
	Pari-mutuel	21	Iowa Code Ann. §99D.11(7) (2003)
	Casinos	21	Iowa Code §99F.9(5) (2003)
KS	Lottery	18	Kan. Stat. Ann. §74-8708 (2002)
	Pari-mutuel	18	Kan. Stat. Ann. §74-8839 (2002)
KY	Lottery	18	Ky. Rev. Stat. Ann. §154A.990 (2003)
LA	Lottery	21	La. Rev. Stat. §47:9025 (2003)
	Casinos	21	La. Rev. Stat. §27:260 (2003)
ME	Lottery	18	Me. Rev. Stat. Ann. tit. 8, §374 (2003)
	Pari-mutuel	18	Me. Rev. Stat. Ann. tit 8, §275-D (2003)
MD	Lottery	18	Md. State Govt. §9-124 (2004)
MA	Lottery	18	Mass. Gen. Laws Ann. ch. 10, §24 (2004)
	Pari-mutuel	18	Mass. Gen. Laws Ann. ch. 128A, §10 (2004)

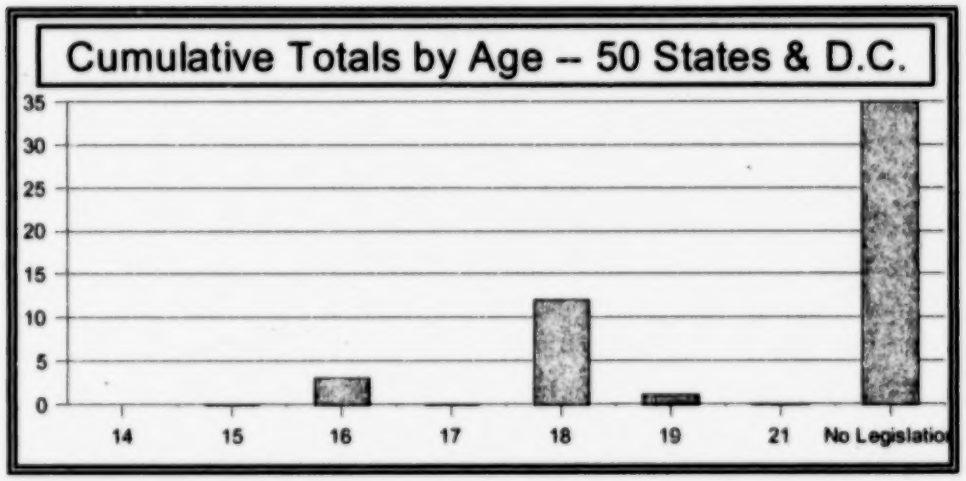
MI	Lottery	18	Mich. Comp. Laws Ann. §432.29 (2003)
MN	Lottery	18	Minn. Stat. Ann. §349A.12 (2003)
MS	Casinos	21	Miss. Code Ann. §75-76-155 (2003)
MO	Lottery	18	Mo. Ann. Stat. §313.280 (2003)
	Pari-mutuel	18	Mo. Ann. Stat. §313.670 (2003)
	Casinos	21	Mo. Ann. Stat. §313.817 (2003)
MT	Generally	18	Mont. Code Ann. §23-5-158 (2003)
NE	Lottery	18	Neb. Rev. Stat. §9-430 (2003)
NV	Generally	21	Nev. Rev. Stat. §463.350 (2003)
NH	Lottery	18	N.H. Rev. Stat. §287-F:8 (2003)
	Pari-mutuel	18	N.H. Rev. Stat. §284-33 (2003)
NJ	Lottery	18	N.J. Stat. Ann. §5:9-15 (2003)
	Pari-mutuel	18	N.J. Stat. Ann. §5:5-65 (2003)
	Casinos	21	N.J. Stat. Ann. §5:12-119(2003)
NM	Lottery	18	N.M. Stat. Ann. §6-24-15 (2003)
	Casinos	21	N.M. Stat. Ann. §11-13-1 (2003)
NY	Lottery	18	N.Y. Tax Law §1610 (2003)
NC		-	No Legislation

ND	Lottery	18	N.D. Cent. Code §53-12-24 (2003)
OH	Lottery	18	Ohio Rev. Code Ann. §3770.08 (2003)
OK	Pari-mutuel	18	Okla. Stat. Ann. tit. 3A, §208.4 (2003)
OR	Lottery	18	Or. Rev. Stat. §461.600 (2001)
	Pari-mutuel	18	Or. Rev. Stat. §462.190 (2001)
PA	Lottery	18	Pa. Stat. Ann. tit. 72, §3761-309 (2003)
RI	Lottery	18	R.I. Gen. Laws Ann. §42-61-9 (2002)
	Pari-mutuel	18	R.I. Gen. Laws Ann. §41-4-2 (2002)
SC	Lottery	18	S.C. Code Laws Ann. §59-150-210 (2003)
SD	Lottery	18	S.D. Codified Laws §42-7A-32 (2003)
	Pari-mutuel	18	S.D. Codified Laws §42-7-76 (2003)
	Casinos	21	S.D. Codified Laws §42-7B-35 (2003)
TN	Pari-mutuel	18	Tenn. Code Ann. §4-36-310 (2003)
TX	Lottery	18	Tex. Govt. Code Ann. §466.3051 (2003)
UT	-	-	Gambling Illegal
VT	Lottery	18	Vt. Stat. Ann. tit. 31, §661 (2003)
	Pari-mutuel	18	Vt. Stat. Ann. tit. 31, §613 (2003)
VA	Lottery	18	Va. Ann. Code §58.1-4015 (2003)
	Pari-mutuel	18	Va. Ann. Code §59.1-403

WA	Lottery	18	Wash. Rev. Code Ann. §67.70.120 (2004)
WV	Lottery	18	W.Va. Code §29-22-11 (2003)
WI	Lottery	18	Wis. Stat. Ann. §565.17 (2003)
WY	Pari-mutuel	18	Wyo. Stat §11-25-109 (2003)

APPENDIX I

Right to Patronize Pool Halls



Totals (50 States and D.C.)

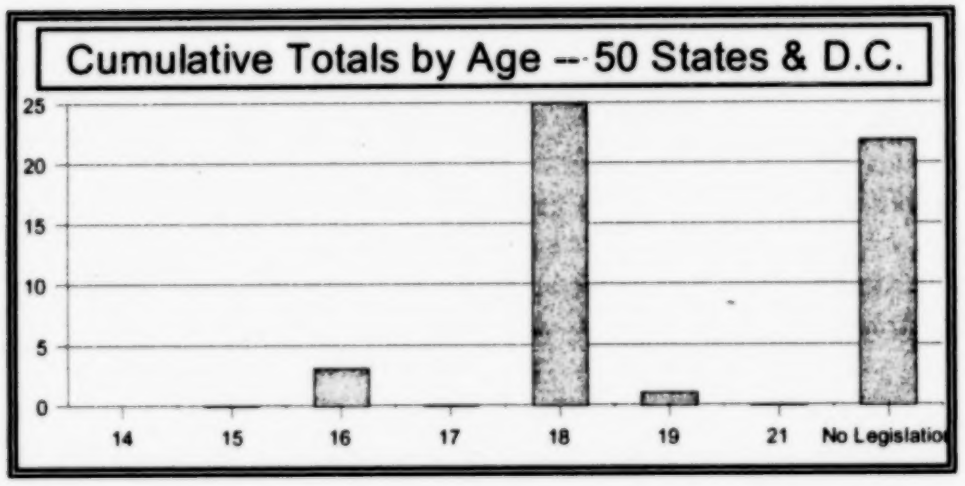
Ages	16	18	19	N/A
Numbers	3	12	1	35

STATE	AGE	CITATION
AL	19	Ala. Code §34-6-9 (2003)
AK	-	No Legislation
AZ	-	No Legislation
AR	18	Ark. Stat. Ann. §5-27-224(e) (2003)
CA	-	No Legislation
CO	-	No Legislation
CT	18	Conn. Gen. Stat. §53-281 (Repealed 1994)
DE	-	No Legislation
DC	-	No Legislation
FL	18	Fla. Stat. Ann. §849.04 (2003)
GA	-	No Legislation
HI	-	No Legislation
ID	-	No Legislation
IL	-	No Legislation
IN	-	No Legislation
IA	-	No Legislation
KS	-	No Legislation
KY	18	Ky. Rev. Stat. Ann. §436.320 (2003)
LA	18	La. Rev. Stat. Ann. §26.90 (2003)
ME	16	Me. Rev. Stat. Ann. tit. 26, §773 (2003)
MD	-	No Legislation
MA	18	Mass. Gen. Laws Ann. ch.140, §179 (2003)
MI	-	No Legislation
MN	-	No Legislation
MS	18	Miss. Code Ann. §97-5-11 (2003)
MO	16	Mo. Ann. Stat. §318.090 (2003)
MT	-	No Legislation
NE	-	No Legislation
NV	-	No Legislation
NH	-	No Legislation

NJ	-	No Legislation
NM	-	No Legislation
NY	16	N.Y. Gen. Bus. Law §465 (Repealed 1988)
NC	18	N.C. Gen. Stat. §14-317 (2003) (minors may not enter premises where alcohol sold)
ND	-	No Legislation
OH	-	No Legislation
OK	-	No Legislation
OR	-	No Legislation
PA	18	Pa. Stat. Ann. tit. 18, §7105 (2003)
RI	18	R.I. Gen. Laws §5-2-13 (2002)
SC	18	S.C. Code Ann. §20-7-350 (Repealed 1996)
SD	-	No Legislation
TN	-	No Legislation
TX	-	No Legislation
UT	-	No Legislation
VT	-	No Legislation
VA	-	No Legislation
WA	-	No Legislation
WV	-	No Legislation
WI	-	No Legislation
WY	18	Wyo. Stat. §33-6-108(b) (2003)

APPENDIX J

Right to Pawn Property or to Sell Junk or Precious Metals to Dealers



Totals (50 States and D.C.)

Ages	16	18	19	N/A
Numbers	3	25	1	22

STATE	AGE	CITATION
AL	19	Ala. Code §5-19A-8 (2003)
AK	-	No Legislation
AZ	16	Ariz. Rev. Stat. Ann. §44-1627 (Repealed 1988)
AR	-	No Legislation
CA	16	Cal. Fin. Code §21207 (2004)
CO	18	Colo. Rev. Stat. §12-56-104 (2003)
CT	18	Conn. Gen. Stat. §21-47 (2003)
DE	18	Del. Code Ann. tit. 24, §2312 (2003)
DC	-	No Legislation
FL	18	Fl. Stat. Ann. §743.07 (2003)
GA	-	No Legislation
HI	-	No Legislation
ID	-	No Legislation
IL	18	Ill. Comp. Stat. Ann. ch. 23, para. 2366 (2003)
IN	18	Ind. Code Ann. §28-7-5-36 (2003)
IA	-	No Legislation
KS	18	Kan. Stat. Ann. §16-717 (2002)
KY	18	Ky. Rev. Stat. Ann. §226.030 (2003)
LA	-	No Legislation
ME	-	No Legislation
MD	-	No Legislation
MA	-	No Legislation
MI	18	Mich. Comp. Laws Ann. §750.137 (2003)
MN	18	Minn. Stat. Ann. §609.81 (Repealed 1996)
MS	-	No Legislation
MO	18	Mo. Ann. Stat. §568.070 (2003)
MT	18	Mont. Code Ann. §45-5-623 (2003)
NE	18	Neb. Rev. Stat. §69-210 (2003)
NV	18	Nev. Rev. Stat. §647.140 (2003)

NH	18	N.H. Rev. Stat. Ann. §398:2 (2003)
NJ	16	N.J. Stat. Ann. §45:22-31 (2003)
NM	18	N.M. Stat. Ann. §56-12-14 (2003)
NY	-	No Legislation
NC	-	No Legislation
ND	-	No Legislation
OH	18	Ohio Rev. Code Ann. §4727.10 (2003)
OK	18	Okla. Stat. Ann. tit. 59, §1511 (2003)
OR	18	Or. Rev. Stat. §726.270 (2001)
PA	18	Pa. Stat. Ann. tit. 63, §281-29 (2003)
RI	18	R.I. Gen. Laws §19-26-12 (2003)
SC	-	No Legislation
SD	-	No Legislation
TN	-	No Legislation
TX	18	Tex. Fin. Code §371.176 (2003)
UT	-	No Legislation
VT	18	Vt. Stat. Ann. tit. 9, §3870 (2003)
VA	-	No Legislation
WA	18	Wash. Rev. Code Ann. §19.60.066(3) (2004)
WV	-	No Legislation
WI	18	Wis. Stat. Ann. §948.63 (2003)
WY	-	No Legislation

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1361